



eration of the opinion and move ahead with a regulation to clarify the term "reasonable quantity."

## LEGISLATION:

**SB 2815 (Roberti)**, as amended August 22, would have required the Department of Aging, in consultation with the Board of Pharmacy, to develop and distribute a brochure for the purpose of helping prevent the misuse of medications, increasing the awareness of the problems associated with the use of multiple medications, and increasing compliance with instructions for medication use by older persons. The bill also would have required pharmacists providing a prescription medication to an older person to give that person a copy of the brochure, discuss the effects of the medication with the person, and contact the prescribing physician if he/she believes a medication is causing an adverse reaction or adverse drug interaction in the person. This bill was vetoed by the Governor on September 29.

**AB 3924 (Cannella)**, as amended August 15, extends the exemption from home health agency licensing requirements, until January 1, 1992, for a licensed pharmacy engaged in providing, pursuant to the order of a physician, parenteral or enteral therapies administered by a licensed registered nurse employed, or whose services are arranged for, by the pharmacy. This bill was signed by the Governor on September 11 (Chapter 761, Statutes of 1990).

The following is a status report on bills discussed in CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) at pages 115-16:

**AB 4168 (Hunter)**, as amended August 17, would have specified that products listed as "Code A" in a specified publication issued by the U.S. Department of Health and Human Services may be substituted by pharmacists for the generic equivalent; and that if the drug product is designated as "Code B" in that publication, the pharmacist is prohibited from substituting for the product unless he/she consults with the prescribing physician. This bill was vetoed by the Governor on September 30.

**SB 736 (Marks)**, as amended August 27, would have required the state Department of Health Services (DHS) to approve senior citizen medical education programs from July 1, 1991, through June 30, 1992, in up to six local health jurisdictions. The bill was vetoed by the Governor on September 21.

**AB 3276 (Bronzan)**, as amended July 3, requires a pharmacist to provide a

label or enclosure with the drug container whenever a prescribed drug has not previously been dispensed to the patient, or whenever the prescribed drug has been dispensed in a different dosage, form, strength, or with different written directions. This bill was signed by the Governor on September 8 (Chapter 641, Statutes of 1990).

**AB 3975 (Margolin)**, as amended August 17, would have required the Board to designate a statewide drug information center to provide direct telephone assistance or referral to appropriate health care providers for any person desiring information relating to prescription drugs. This bill was vetoed by the Governor on September 27.

**AB 4106 (Polanco)**, as amended July 9, provides that a person exempt from the Pharmacy Licensing Law must be present any time a person is seeking a fitting or consultation on a medical device, except that an exemptee need not be present if the dangerous devices are stored in a secure locked area, as specified. This bill was signed by the Governor on September 18 (Chapter 1074, Statutes of 1990).

**SB 1829 (Watson)** would have authorized DHS to implement a specified pilot project in San Francisco under which San Francisco's health officer would be required to develop new, innovative programs or undertake new measures to prevent the further spread of certain diseases. This bill died in the Senate inactive file.

**AB 2713 (Moore)**, as amended August 21, requires manufacturers of nonprescription drugs sold in California to permit the modification of the labeling of nonprescription drugs to maximize the readability and clarity of label information, in both the cognitive and visual sense. This bill was signed by the Governor on September 12 (Chapter 839, Statutes of 1990).

**AB 2827 (Roberti)**, as amended August 7, requires the Board to encourage every licensed pharmacist to take a course in geriatric pharmacology as part of his/her continuing education requirements. This bill was signed by the Governor on September 29 (Chapter 1539, Statutes of 1990).

**AB 1006 (Isenberg)**, as amended July 9, would have required a health care service plan or nonprofit hospital service plan to give notice to all pharmacy providers of its intent to contract for pharmacy services. This bill was vetoed by the Governor on September 26.

**AB 1177 (Kelley)** would have required a pharmacist to inform a patient either orally or in writing of the harmful

effects of a drug dispensed by prescription, if the drug poses substantial risk when taken in combination with other prescribed drugs known by the pharmacist as having been dispensed to that patient. This bill died in the Senate Business and Professions Committee.

## FUTURE MEETINGS:

January 30-31 in San Francisco.

March 20-21 in Los Angeles.

May 29-30 in Sacramento.

July 30-August 1 in Sacramento.

October 16-17 in Los Angeles.

## BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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The Board of Registration for Professional Engineers and Land Surveyors (PELS) regulates the practice of engineering and land surveying through its administration of the Professional Engineers Act, sections 6700 through 6799 of the Business and Professions Code, and the Professional Land Surveyors' Act, sections 8700 through 8805 of the Business and Professions Code. The Board's regulations are found in Chapter 5, Title 16 of the California Code of Regulations (CCR).

The basic functions of the Board are to conduct examinations, issue certificates, registrations, and/or licenses, and appropriately channel complaints against registrants/licensees. The Board is additionally empowered to suspend or revoke registrations/licenses. The Board considers the proposed decisions of administrative law judges who hear appeals of applicants who are denied a registration/license, and those who have had their registration/license suspended or revoked for violations.

The Board consists of thirteen members: seven public members, one licensed land surveyor, four registered Practice Act engineers and one Title Act engineer. Eleven of the members are appointed by the Governor for four-year terms which expire on a staggered basis. One public member is appointed by the Speaker of the Assembly and one by the Senate President pro Tempore.

The Board has established four standing committees and appoints other special committees as needed. The four standing committees are Administration, Enforcement, Examination/Qualifications, and Legislation. The committees function in an advisory capacity unless specifically authorized to make binding decisions by the Board.



Professional engineers are registered through the three Practice Act categories of civil, electrical, and mechanical engineering under section 6730 of the Business and Professions Code. The Title Act categories of agricultural, chemical, control system, corrosion, fire protection, industrial, manufacturing, metallurgical, nuclear, petroleum, quality, safety, and traffic engineering are registered under section 6732 of the Business and Professions Code.

Structural engineering and geotechnical engineering are authorities linked to the civil Practice Act and require an additional examination after qualification as a civil engineer.

At its June 15 meeting, PELS elected Ernest Short as Board President and Robert Young as Vice-President for fiscal year 1990-91. At the July 27 meeting, Robert Verderber, P.E., was welcomed as a new Board member.

## MAJOR PROJECTS:

**Proposed Rulemaking.** In September, PELS approved a package of draft regulatory changes for publication in the *Notice Register*, contingent on the referral of section 425 to its Administrative Committee for possible amendments. Section 425, Chapter 5, Title 16 of the CCR, interprets and clarifies the land surveyor educational and experience requirements contained in sections 8741 and 8742 of the Business and Professions Code. The draft amendments to section 425 would set forth specific activities which do and do not qualify as "responsible field training" and "responsible office training," both of which are required for land surveyor licensure.

The Board's proposal to amend section 404 and adopt section 414 come in response to a request from the Office of Administrative Law (OAL) to clarify existing regulations which OAL found to be vague. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 117 for background information.) Amendments to section 404 would change the definition of "fire protection engineering" to expressly preclude the offering of design services, including the production of plans, specifications, or engineering reports for fire extinguishing, fire sprinkling, and/or fire alarm or fire detection systems. The proposed amendments would also define a "practice act engineer" as a professional engineer registered under the Code to use the title "civil engineer," "electrical engineer," or "mechanical engineer," and would define a "title act engineer" as a professional engineer registered under the Code to use any one or more of a list of specified titles. A "title authority engi-

neer" would be defined as a civil engineer registered under the Code to use the titles "geotechnical engineer" or "structural engineer." Proposed section 414 would provide that a title act engineer is permitted to render engineering design services, including the production of plans, specifications, and engineering reports, but only insofar as such design services do not constitute the practice of civil engineering, electrical engineering, or mechanical engineering.

Proposed amendments to sections 464 and 465 would clarify corner record requirements (interpreting section 8773 of the Business and Professions Code), and requirements relating to the filing of a record of survey by a public officer.

Following official publication of its notice to adopt and amend these regulations, PELS will hold public hearings on the proposed changes.

**Special Civil Examination.** On June 28 and July 16, PELS held informal hearings to discuss the implementation of the Special Civil Examination. PELS selected CTB-McGraw Hill to develop a new test plan for the exam, which tests seismic principles and engineering surveying and is indigenous to California. (See CRLR Vol. 9, No. 2 (Spring 1989) pp. 72-73 and Vol. 7, No. 2 (Spring 1987) p. 66 for background information.) CTB-McGraw Hill was scheduled to administer its first such exam in October.

PELS decided to change from the National Council of Examiners in Engineering and Surveying (NCEES), its prior Special Civil Examination administrator, to CTB-McGraw Hill based on two factors: (1) PELS needed a validation study on the exam and NCEES refused to conduct such a study; and (2) NCEES administers the national exam which is used by PELS and other state boards of engineering; it is not tailored to the specific needs of California.

**PELS Seeks Experts.** During July and August, PELS solicited engineering and land surveying experts to review enforcement cases. As part of PELS' mission to protect the public, its enforcement unit investigates allegations of violations of the Professional Engineers Act and the Professional Land Surveyors Act. Technical expertise is often necessary to determine whether an allegation is valid and whether the subject of the complaint has performed the work according to acceptable standards. Additionally, these experts may serve as expert witnesses if the case proceeds through the administrative hearing process.

Individuals interested in serving as PELS experts must meet the following qualifications:

- he/she must be currently registered with a minimum of four years' experience in a specific field of engineering or in land surveying;

- he/she must be willing to perform the work independent of a firm or corporation;

- he/she must not have any enforcement cases pending or be on probation with the Board;

- he/she must be willing to provide a detailed written report/expert opinion to the Board in a specified format;

- he/she must be willing to complete the review of cases and submit written reports within thirty days of case assignment; and

- he/she must be willing to testify, if necessary, in an administrative hearing should the case proceed to trial.

PELS's expert search was successful, yielding a pool of names from which the Board is free to draw. However, it is still seeking experts from certain areas, such as geotechnical engineering.

**Bridge Design Discipline.** At its July 27 meeting, the Board decided to drop the proposal to create a separate licensing scheme for California bridge designers. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 117 for background information.) Consequently, informational public hearings were not scheduled on this subject. The Board based its decision on the negative response from the engineering community, which apparently believes that the current system which allows any general civil engineer to design any structure in California is sufficient. However, the issue of whether this broad authority for civil engineers is appropriate is a recurring one and PELS expects it to resurface in the future.

## LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) at pages 118-19:

**AB 2537 (Burton)**, as amended August 14, would have created the Crane Operators Licensing Board, consisting of three appointed members, and would have made it a misdemeanor for any person to operate a crane without having a license issued by that board, with certain exceptions. The bill would have required the board to investigate and qualify applicants for a license to operate a crane by written and practical examination, and would have allowed the board to issue a license to applicants meeting specified qualifications without



examination. This bill was vetoed by the Governor on September 13.

**AB 3395 (Eastin)**, as amended August 20, includes within the definition of civil engineering and land surveying the creation, preparation, or modification of electronic or computerized data in the performance of specified activities of civil engineering and land surveying. This bill was signed by the Governor on September 22 (Chapter 1226, Statutes of 1990).

**AB 3590 (Farr)**, as amended July 27, would have created a Geographic Information Task Force, composed of fifteen members, to be convened by the Teale Data Center. The task force would have been required to submit a report containing specified minimum recommendations to the Governor and the appropriate committees of the legislature by January 1, 1992. This bill was vetoed by the Governor on September 13.

**AB 3781 (Chandler)**, which, as amended August 14, would have provided that no regulation, standard, code, ordinance, or policy may be adopted by any public agency which restricts or limits the scope of practice of any registered professional engineer or licensed land surveyor, died after the Assembly failed to concur in Senate amendments.

**AB 4138 (Eaves)**, as amended August 15, revises section 8730 of the Business and Professions Code to exempt from PELS' licensure requirements officers and employees of electric, gas, or telephone corporations, as defined, whenever they prepare legal descriptions of an easement for utility distribution lines and service facilities. This bill, which PELS opposed, was signed by the Governor on September 29 (Chapter 1520, Statutes of 1990).

**SB 1922 (Davis)**, as amended June 27, provides that the prohibition against indemnifying a promisee against liability for damages arising from actions of the promisee or the promisee's agents, servants, or independent contractors, does not prevent an agreement, other than an agreement by a public entity, to indemnify a professional engineer or geologist, or the agents, servants, independent contractors, subsidiaries, or employees of the engineer or geologist, from liability in providing identification, evaluation, preliminary assessment, design, remediation services, or other specified services in connection with defined hazardous materials described in specified provisions of state and federal law, if certain criteria are met. However, the indemnification permitted is valid only for damages arising from, or related to, subterranean contamination or concealed conditions, and will not be appli-

cable to at least the first \$250,000 of liability. Also, indemnification will not be permitted for willful misconduct or gross negligence. This bill was signed by the Governor on September 12 (Chapter 814, Statutes of 1990).

**SB 1964 (Greene, L.)**, as amended July 2, provides that a registered civil engineer may also practice or offer to practice construction project management services in either the public or private sector. This bill was signed by the Governor on September 11 (Chapter 786, Statutes of 1990).

**SB 2032 (Greene, L.)**, which (among other things) requires that all accrued and unpaid renewal fees be paid as a condition for the renewal of an engineer's certificate or a land surveyor's license, was signed by the Governor on August 24 (Chapter 545, Statutes of 1990).

**SB 2503 (Greene, L.)**. Existing law provides that no civil engineer registration shall be issued by PELS on or after January 1, 1988, to any applicant unless he/she successfully completes questions to test his/her knowledge of seismic principles and engineering surveying principles. As amended August 23, this bill would have instead prohibited the issuance of that registration on or after January 1, 1991, unless that applicant achieves a passing score on the second division of the required examination. This bill was vetoed by the Governor on September 29.

**SBX 16 (Roberti)** and **ABX 9 (Epple)** are similar bills designed to prevent the October 1989 Loma Prieta earthquake victims from suffering by making acts of unlicensed architects, engineers, or contractors punishable as either a misdemeanor or a felony. **ABX 9**, which was signed by the Governor on September 22 (Chapter 36X, Statutes of 1990), contains additional provisions which double the amount of fines which may be imposed for certain offenses under such circumstances; require the defendant to make full restitution subject to the defendant's ability to pay; add a one-year enhancement where the offense is a felony and the defendant has a prior felony conviction of such an offense; and require probation of at least five years or until restitution is made. **SBX 16** died in the Senate Appropriations Committee.

**SBX 24 (Alquist)**, as amended January 4, would have imposed on the Seismic Safety Commission a requirement to conduct an investigation of the Loma Prieta earthquake. This bill died in the Senate Appropriations Committee.

**SBX 46 (Lockyer)**, as amended July 2, grants limited immunity to architects or

engineers providing voluntary, uncompensated structural inspection services at the scene of a declared emergency caused by a major earthquake, within thirty days of the earthquake, at the request of a public official, public safety officer, or city or county building inspector acting in an official capacity. This bill was signed by the Governor on September 19 (Chapter 30X, Statutes of 1990).

**AB 1789 (Cortese)**, as amended July 27, gives architects, engineers, and land surveyors a specified design professional's lien on real property for which a work of improvement is planned, and for which a specified governmental approval is obtained. This bill was signed by the Governor on September 30 (Chapter 1615, Statutes of 1990).

## LITIGATION:

*Floyd E. Davis, et al. v. Department of Consumer Affairs, et al.*, No. 512457 (Sacramento County Superior Court) is proceeding to trial; the trial-setting conference was scheduled for September 27. The parties, which are currently engaged in discovery, are seeking a trial date in December 1990 or in early 1991. James Corn of Turner and Sullivan is representing the plaintiffs, and Reginald Rucoba of the Attorney General's Office is representing PELS in this action, in which plaintiffs challenge the validity of PELS regulations which provide that only structural engineers may serve as references for structural engineering candidates, and only plan-checking experience obtained under the supervision of a structural engineer constitutes valid qualifying structural experience. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 119; Vol. 9, No. 4 (Fall 1989) pp. 76-77; Vol. 9, No. 3 (Summer 1989) p. 68; and Vol. 9, No. 1 (Winter 1989) p. 62 for background information.)

## RECENT MEETINGS:

At its September 14 meeting, PELS referred a draft of the Memorandum of Understanding between the United States and Canada to its Examination/Qualification Committee. The memorandum, which was developed by the Canadian Council for International Engineering Practice, contains standards of international recognition which may be adopted by the U.S. and Canada as guidelines to be used in evaluating the credentials of a professional engineer from the other country to determine whether his/her credentials are sufficient to qualify that individual for practice.

## FUTURE MEETINGS:

December 14 in San Clemente.  
February 1 in Monterey.  
March 22 in San Diego.